

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FILE

12-4-19

UNITED STATES OF AMERICA,  
Plaintiff,

v.

JIFFY CLEANERS OF HARTSDALE, INC.  
and WILTON CALDERON,  
Defendants.

**ORDER**

16 CV 2428 (VB)

On November 22, 2019, the Court issued an Order directing plaintiff to demonstrate service of its motion to hold defendants in civil contempt and for sanctions, or serve defendants with same by December 23, 2019. (Doc. #25).

A certificate of service docketed on November 22, 2019, indicates plaintiff served its motion and supporting papers on defendant Wilton Calderon by Federal Express. (See Doc. #26).

By letter dated December 2, 2019, plaintiff asks the Court to deem its Federal Express service on Calderon as sufficient service on defendant Jiffy Cleaners of Hartsdale, Inc. as well, pursuant to Rule 4(h)(1)(B). (Doc. #28).

Local Civil Rule 83.6, titled "Contempt Proceedings in Civil Cases," states in relevant part:

Where the alleged contemnor has appeared in the action by an attorney, the notice of motion . . . and the papers upon which it is based may be served upon said attorney; otherwise service shall be made personally, together with a copy of this Local Civil Rule 83.6, in the manner provided for by the Federal Rules of Civil Procedure for the service of a summons.

Local Civil Rule 83.6 (emphasis added).

Plaintiff's Federal Express service of the motion to hold defendants in contempt and for sanctions was not proper, as Rule 4 does not provide for service of process by Federal Express. Because service on Calderon was improper, such service cannot be deemed sufficient as to Jiffy Cleaners.

Accordingly, it is HEREBY ORDERED:

1. By December 23, 2019, plaintiff shall serve Calderon with a copy of this Order, its motion for contempt and sanctions, and a copy of Local Civil Rule 83.6, pursuant to Local Civil Rule 83.6 and Rule 4, and file proof of service of same. Proper service on Calderon shall be deemed sufficient service on Jiffy Cleaners pursuant to Rule 4(h)(1)(B).
2. Defendants' opposition to the instant motion shall be due 21 days after service is made.
3. Plaintiff's reply, if any, shall be due 7 days after defendants' opposition is filed.

Dated: December 4, 2019  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', with a long horizontal flourish extending to the right.

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Vincent L. Briccetti  
United States District Judge